

The law of the Public Prosecutor

In the Name command council

In accordance with the provisions of item (A) of Article (42) of the constitution

The revolution Command Council order the promulgation of the following law

No (159) of 1979

Law of the public prosecutor

Section first

Basic principles

Article (1) this law aims to organize the public prosecutor to achieve the following:

First- protection of the state orders, its security, its establishments and protects the state properties and the social sector

Second: support the socialist regime, protecting its bases and respect the implementation of the law

Third: to participate with the judicial system and the authorized offices to reveal the criminal acts, finalization the cases quickly and avoid postpone the trials without a reason

Fourth: to observe the execution of judgments decisions and penalties according to the law

Fifth: to participate at evaluating according to the law

Sixth: to participate at monitoring the criminal phenomena and submit practical suggestions to decrease it

Seventh: participate at the family and childhood protection.

Section four

Service at the public prosecution

Chapter (1)

Appointment

Article (42)

First the minister of Justice shall appoint the place for the member of the public prosecution to commence his work after the issuance of the presidential decree of his appointment

Second the member of the public prosecution is not allowed to practice his career before a thing the following

(I swear by God to do my duties and laws with faith and honesty in a way agreed with their aims for establishing the united democratic and socialist society)

third the chief of the public prosecution shall oath in front of the president of the republic with the presence of he minister of Justice , the other member of the Public prosecution shall oath in front of the council of Justice which is established according to the law of the ministry of law No 101 of 1979

Chapter two Up grading

Article (44)

First:

The up grading of member of the public prosecution from one level to higher level shall be by a decision of the council of Justice after spending the fixed period at his level shown at item (first) of Article (43) of this law.

Second:

The council of Justice shall consider when reviewing the up grading of the member of the public prosecution the report of his superiors, the judicial inspection concerning his competence and good behavior and the opinion of the ministry of Justice concerning his behavior

Third:

The council of Justice shall issue its decision of up grading the member of the public prosecution if his competence was certified and the ministry of Justice shall issue its decision.

Fourth:

The council of Justice shall can postpone with a decision the up grading of the member of the public prosecution after mention the reason for a period not less than (3 month) and not more than (one year)for more than one time if the council find out that he is not competent for up grading

Fifth:

The service of the member of the public prosecution can be terminated to transferred him to a civil post with a presidential decree upon a decision of the council of Justice and the suggestion of the minister of Justice if his up grading were postpone for more than two times at the same level

Chapter (three) Promotion

Article (45)

Second:

The member of the public prosecution shall be promoted from one level to another by a decision of the council of justice upon a request submitted by the member of the public prosecution to the ministry of justice under the following conditions:

A: He got the minimum salary to the level he with to be promoted to it

B: He had prepared a research on a subject related to the judicial and legal matters> the person who got (M.A.) will be spear of submitting a research for one promotion and also the person who got Ph.D. will be spear of that for two promotion.

Article (46)

First:

The ministry of justice when receive a promotion request ask for the opinion of the presidency of the public prosecution and

presidency of the judicial supervision committee concerning the efficiency of the member of the public prosecution

Second:

The ministry of Justice shall submit the request accompanied by the mentioned opinion at item (first) of this article with its opinion to the council of justice for consideration

Third:

For the estimation of the efficiency of the member of the public prosecution for promotion. The council of justice may have the help of the memorandum mentioned items (first) and of this article and the annual reports

Fourth:

The council of justice shall review with the matters related to promotion at the months of (January and July) of every year and its decisions are final.

Article (47)

Second: the public prosecutor at the court of cassation the general prosecutor at the appeal territory and the general prosecutor at the high labor court out of general prosecutors of level (first and second)

Third:

The deputy of the chief of the general prosecution out of the general prosecutors of level (first and second)

Fourth:

The chief of the general prosecutor shall be appointed out of his deputies or out of the general prosecutors of level (first)

Article (48)

The seniority of the members of the public prosecution shall be according to their positions, levels and date of appointment and in case of equality the seniority shall be according to the decision of the minister of justice.

Chapter (4)

Transferee and deputization

Article (49)

First: the member of the public prosecution shall not be transferred to any post outside the public prosecution office without his written agreement.

Second:

The deputy of the chief of public prosecution and the public prosecution can be deputize with his written agreement and by the order of the minister of justice to the post of legal adviser at the revolution command council or at the presidency office or at any office of the ministry of justice or teaching at the law school or judicial institution

Third:

The member of the public prosecutes can be transferred with his written agreement and upon the order of the minister of justice to other offices of the ministry

Fourth:

the minister of justice has the right to deputize member of the public prosecution graduated of the judicial institution to the post of investigation judge or misdemeanor judge or member of the felony court.

Fifth A: the minister of justice have the right to deputize the chief of the public prosecution and the prosecutor for a post at the state consultative council as advisors for the period stated at the law of

the state consultative council No (65) of 1979 if they have all the conditions

B- A public prosecutor may be deputized to the post of judicial supervisor to supervise the ministry offices other than courts by the council of justice upon the suggestion of the minister.

Sixth:

it is not allowed to deputize the member of public prosecution to any civil post only in case of his written agreement by the order of the minister of justice for a legal posts at the revolution command council or teaching at the university or judicial institution

Seventh: the deputization period mentioned in this article shall not exceed (3) years but can be renewed for another year .

Article (50)

First : after the validity of this law it is not allowed

A: Appoint the member of the prosecution of level (four) but at the suburban cities

B: to transfer the member of the public prosecution of level (three) to the city of Baghdad

Second:

the member of the public prosecution shall not be transferred before spending (3) years at one place. The council of justice has the right to transfer him after mentioning the reasons or the medical reports certified that his health condition required him to be transferred or his condition would not let him do his duties.

Third:

the member of the public prosecution of level (four, three and second) shall not stay without transfer for more than (5) years except these at Baghdad

Fifth:

The justice council upon the suggestion of the chief of public prosecution have the right to transfer or appoint deputy of public prosecution of level (four) to the governorate centre except Baghdad

Sixth:

It is possible for a member of the public prosecution to be transferred to another place for public interest by the order of the chief of the public prosecution

Article (51)

The transfer of the members of the public prosecution during the months of July of every year by the agreement of the council of justice upon a suggestion of the minister of justice.

Section five

Supervision and disciplinary

Chapter (one)

Supervision

Article(60)

First : the minister of justice have the right of supervision over the public prosecution and observe the work of its members , their personal behavior and their commitment to their duties stated at article ((39) of this law .

Second: A : the minister of justice have the right in order to accomplish the mission of supervision according to item first of this article, to inspect all the offices of the public prosecution or to deputize the judicial supervisions committee or one of the judges or public prosecutors to do so .

B. the presidency of the public prosecution shall not be inspected but only by the head of the judicial supervision committee

Chapter (two)

Disciplinary

Article (62)

First: the committee of public prosecution's affairs which is founded by according to item (58) of article (58) of this law shall Handel the trial of the public prosecution member who is sent to it for the crimes he committed

Second: the committee shall issue the following penalties at the case against the member of public prosecution

A. warning; which will lead to six months delay of salary raise or up grading

B. The delay of up grading of salary raise or both for a period not less than a year and not more than (3) years.

C: Termination of service, this penalty shall be imposed on the member of the public prosecution if a final judgment of penalty of an authorized court was issued against him for an act violet the honor of his post.

Article (63)

First: the council of justice has the right to terminal the service of the public prosecutor of level (four) or transferee him to civil post upon a decision of inefficiency to continue the service at the office of public prosecution by a presidential decree.

Second: the person whose service was terminated according to this law shall not get back to work at the same post but can be appointed to a civil post.

Article (64)

First: the disciplinary case shall be done against the member of the public prosecution upon the decision of the minister of justice to send him to the committee of public prosecution affairs but decision should contain a statement of the case and the evidence that proves the case and the evidence that proves the case

Second A:\

The committee shall fix a date to review the case and inform the minister of justice, presidency of the public prosecution and the accused public prosecutor

B: the trial shall be secret.

C: the trial shall be with the presence of the representative of minister of justice the chief of the public prosecution or his deputy and the accused member of the public prosecution

D: the committee has the right to make all the investigation necessary

E: the committee shall issue the judgment after completing all the investigations and its decision shall be informed to the minister of justice, chief of public prosecution and the accused public prosecutor.

F: the committee shall follow the rules of the law of criminal trial procedures.

Article (65)

First: If the committee finds out that the action of the member of the public prosecution is a felony or misdemeanor it shall decide to send the papers to the specialized court

Second: if the court decide the innocence of the public prosecutor or send him free or issued any decision that finalize the case the committee shall continue to review the case according this law.

Third: If the committee find out that the accused public prosecutor is guilty, it shall impose a disciplinary penalty against him suitable for his action according to article (62) of this law.

Article (66) The ministry of justice ,chief of the public prosecution and the accused public prosecutor have the right to

review the case at the expanded committee at the court of cassation within(30) days of the date of notifying him about the decision and the decision of he expanded committee shall be final

Section six

Final rules

Article (67)

First: the member of the public prosecution if he feels embared have the right to submit a request to his chief asking him to be